

Exhibit 402

United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.
v. Dey, Inc., et al., Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 - - - - -
4 IN RE: PHARMACEUTICAL) MDL NO. 1456
5 INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
6 PRICE LITIGATION) 01-CV-12257-PBS
7 THIS DOCUMENT RELATES TO)
8 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris
9 the Florida Keys, Inc.)
10 v.) Chief Magistrate
11 Abbott Laboratories, Inc.,) Judge Marianne B.
12 No. 06-CV-11337-PBS) Bowler

13 - - - - -
14 (captions continue on following pages)
15
16

17 Videotaped deposition of LARRY REED
18 Volume III
19
20 Washington, D.C.
21 Tuesday, March 18, 2008
22 9:00 a.m.

1 A. Again, I think that we've talked a
2 little bit about that. I don't recall earlier
3 periods of time. But most recently I was aware
4 that their dispensing fees may have been lower
5 than the cost of dispensing and there may have
6 been some profit in ingredient cost.

7 Q. And that's not something that a state
8 is providing to you in writing, correct, so that
9 you could disapprove that, today?

10 A. I don't remember a plan amendment that
11 came in that would have said that.

12 MR. TORBORG: Why don't we take our
13 first break.

14 THE VIDEOGRAPHER: This is the end of
15 tape 1. Off the record at 10:36.

16 (Recess.)

17 THE VIDEOGRAPHER: This is the
18 beginning of tape 2 in the deposition of Mr.
19 Reed. On the record at 10:51.

20 BY MR. TORBORG:

21 Q. Mr. Reed, would it be fair to say that
22 you can't tell me one way or the other whether

1 you knew in 1993 that state Medicaid programs
2 were using excess payments of ingredient costs to
3 subsidize insufficient dispensing fees?

4 A. It would fair to say that. I don't
5 recall that memory.

6 Q. You don't recall one way or the other
7 whether or not you had that knowledge?

8 A. I don't recall. That's correct. I
9 don't recall.

10 Q. And it's been 15 years since 1993,
11 correct?

12 A. Correct.

13 Q. Your memory has faded over time, I take
14 it?

15 A. Yeah.

16 Q. Would you agree that someone within
17 HCFA was aware that state Medicaid programs were
18 using excess payments on the ingredient side to
19 subsidize insufficient dispensing fees?

20 MS. MARTINEZ: Objection, form.

21 A. From the GAO report that you were
22 showing me, a HCFA official did make that